THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WRIT PETITION NO : 22781 of 2005

DT.25.10.2005

Between:

T.Chenchaiah, s/o Bodaiah @ Bodeppa,
r/o Kalur Village, Tirupathi Rural Mandal, Chittoor District.

..... PETITIONER

AND

The District Cooperative officer, Chittoor, Chittoor District

And 3 others.

.....RESPONDENTS

ORDER:

Heard Sri S.Ramachandra Rao, learned Senior Counsel on behalf of Sri K.R.Prabhakar, learned counsel for the petitioner and the learned Government Pleader for Co-operation.

It is stated that the petitioner herein is the member of Mallamgunta Primary Agricultural Co-operative Society for the last several years and identity card has also been issued in his favour showing his membership No.580/6777 in respect of the said Mallamgunta Primary Agricultural Co-operative Society, Tirupathi Rural Mandal. It is stated that the petitioner belongs Yanadi caste, which is recognized as Scheduled Tribe, and he is resident of Kalur village and recently he has shifted from Kalur village to Gopalapuram (ST colony), which comes under Thondavada Gram Panchayat. The said Thondavada Gram Panchayat comes under Chandragiri Mandal and therefore he has obtained Caste Certificate from the Mandal Revenue Officer, Chandragiri Mandal. Though he continues to be a member of the said Society of Gopalapuram (ST colony) village situate in Thondavada Gram Panchayat, and there are 28 villages which comes within the operation area of Mallamgunta Primary Agricultural Co-operative Society, Tirupathi Rural Mandal, the nomination filed by the petitioner on 18.10.2005 to the post of Director for Ward No.8 which is earmarked for S.T. category, has been rejected on 19.10.2005 on the ground that the name of the village in the nomination paper was written as Kallur village and the name of the village as per records of the Society shows that he was resident of Kallur village, but the Caste Certificate was issued by the Mandal Revenue Officer, Chandragiri Mandal, wherein the place of residence is shown as Thondavada and therefore the nomination paper of the petitioner is liable to be rejected and accordingly rejected.

On instructions, the learned Government Pleader for Co-operation submits that none of the said reasons are the valid reasons to reject the nomination of the petitioner as Tondavada village also comes within the area of operation of Mallamgunta Primary Agricultural Co-operative Society and he continues to be a member of the said Society and therefore there is some mistake on the part of the Election Officer in rejecting the nomination of the petitioner.

It is pertinent to note that in fact the nomination of the 4th respondent for the post of Director to Ward No.1 who is resident of Mallamgunta village was accepted. The name of the 4th respondent is found in the voters' list of Tirupathi. Therefore, it is stated that the action of the Election Officer is discriminatory and violative of fundamental rights guaranteed under the Constitution of India. There are no disputed questions of fact and the rejection of nomination of the petitioner is not in accordance with the provisions of the said Society and the relevant rules made thereunder. Accordingly, the writ petition is allowed setting aside the rejection of nomination paper filed by the petitioner for Ward No.8 earmarked for S.T. Categoy of Mallamgunta Primary Agricultural Co-operative Society and the respondents are directed to treat the said nomination paper filed by the petitioner as valid nomination.

The learned Government Pleader submits that for Ward No.8 of the said Society except the nomination filed by the petitioner there is no other nomination. Therefore, now that the nomination of the petitioner has been held to be valid one, he is entitled to be declared as elected. Accordingly, the Election Officer is directed to declare the election result of the petitioner treating the nomination filed by him as valid nomination.

The writ petition is allowed accordingly. No costs.

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(V.ESWARAIAH, J.)

25.10.2005

NOTE: Issue operative portion of the order

by wire at party's costs.

B.O.

kpr